

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

JOE RICE, JR.,

Plaintiff,

v.

No. 1:22-cv-625 GBW/KRS

UNITED PARCEL SERVICE, INC.,

Defendant.

ORDER DENYING WITHOUT PREJUDICE MOTION TO WITHDRAW

THIS MATTER is before the Court on Plaintiff's counsel's "Stipulated Motion for Leave to Withdraw as Counsel of Record and Extend Deadlines Filed as Contested under LR83(b)," (Doc. 30), filed October 16, 2023. Plaintiff's counsel asks for leave to withdraw and to extend the pretrial deadlines by thirty (30) days. Counsel contacted Plaintiff by phone to ask if he consented to his counsel's withdrawal and whether he intended to appear *pro se* or obtain new counsel. Plaintiff's counsel states that Plaintiff "during that call, requested additional time to think about it, one week." *Id.* at 2. Counsel therefore filed the Motion as contested under the Court's Local Rule 83.8(b). No response to the Motion has been filed and the time for doing so has passed.

The Court's Local Rules require that an unopposed motion to withdraw as counsel indicate consent of the client and either (1) notice of appointment of substitute counsel, or (2) a statement of the client's intention to appear *pro se* and the client's address and telephone number. D.N.M. LR-Civ. 83.8(a). A contested motion must be filed and served on all parties including the client and give notice that objections must be served and filed within fourteen (14) days and that failure to object within this time constitutes consent to grant the motion. D.N.M. LR-Civ. 83.8(b). Here, Plaintiff's counsel filed an opposed Motion to Withdraw, but only

indicates that a copy of the Motion was sent to Plaintiff by email. (Doc. 30) at 3. The Motion does not provide Plaintiff's address or phone number. As such, it is not clear that Plaintiff received the Motion and the Court is unable to allow Plaintiff to proceed pro se because Plaintiff's address and phone number are unknown. For these reasons, the Court will deny the Motion to Withdraw without prejudice and allow counsel to refile it and provide Plaintiff's contact information.

IT IS THEREFORE ORDERED that Plaintiff's Counsel's Motion to Withdraw, (Doc. 30), is DENIED without prejudice.

IT IS SO ORDERED.

A handwritten signature in black ink, reading "Kevin Sweazea", is written over a horizontal line.

KEVIN R. SWEAZE
UNITED STATES MAGISTRATE JUDGE